



09 AUG 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

RANKIN, HILL, PORTER & CLARK, LLP
925 EUCLID AVENUE, SUITE 700
CLEVELAND, OH 44115-1405

In re Application of BRUINS et al :
U.S. Application No.: 10/535,108 :
PCT Application No.: PCT/EP03/07097 :
Int. Filing Date: 03 July 2003 : DECISION
Priority Date Claimed: 19 November 2002 :
Attorney Docket No.: GIL-16108 :
For: ARTHROPOD REPELLENT COMPRISING :
EXTRACTS AND/OR PARTS OF THE :
PLANT VITEX AGNUS-CASTUS :

This is in response to applicant's "Petition to Withdraw Holding of Abandonment Under 37 CFR 1.8(b)" filed 24 July 2006, which is being treated under 37 CFR 1.181. No petition fee is due.

BACKGROUND

On 03 July 2003, applicant filed international application PCT/EP03/07097, which claimed priority of an earlier Germany application filed 19 November 2002. A copy of the international application was communicated to the USPTO from the International Bureau on 03 June 2004. The thirty-month period for paying the basic national fee in the United States expired on 19 May 2005.

On 16 May 2005, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 30 September 2005, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 05 October 2005, applicant purportedly filed an executed declaration.

On 13 July 2006, the DO/EO/US mailed a Notification of Abandonment (Form PCT/DO/EO/909), which indicated that the application is abandoned for failure to timely respond to the Notification of Missing Requirements.

On 24 July 2006, applicant filed the present petition under 37 CFR 1.181.

DISCUSSION

The evidence of record is sufficient to establish that the declaration was originally filed on 05 October 2005. Specifically, the copy of the return postcard, which includes the declaration in its itemized contents and which bears a USPTO date stamp of 05 October 2005, serves as *prima facie* evidence that the declaration was received by the USPTO on 05 October 2005.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.181 is GRANTED.

The Notification of Abandonment (Form PCT/DO/EO/909) mailed 13 July 2006 is hereby VACATED.

The application has an International Filing Date under 35 U.S.C. 363 of 03 July 2003, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 05 October 2005.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision.



Bryan Tung
PCT Legal Examiner
PCT Legal Office

Telephone: 571-272-3303
Facsimile: 571-273-0459